

AGREEMENT OF PURCHASE AND SALE
BY AND BETWEEN
BEAL BANK, S.S.B.
AND
MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

Agreement of Purchase and Sale
Big Pine Key

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (the "Agreement") dated February 18, 2004 ("Effective Date") is made and entered into by and between Beal Bank, S.S.B., a state savings bank organized under the laws of the State of Texas ("Seller"), as seller, and the Monroe County Board of County Commissioners of Monroe County, Florida, a political subdivision of the State of Florida ("Buyer"), as buyer.

RECITAL

Seller desires to sell the Property (as defined in Section 1.2 below) to Buyer, and Buyer desires to purchase the Property from Seller, all on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, Seller and Buyer hereby agree as follows:

ARTICLE I

PURCHASE AND SALE OF PROPERTY

Section 1.1 Sale. Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, subject to the terms, covenants and conditions set forth herein, all of Seller's right, title and interest in and to those certain tract(s) or parcel(s) of land, commonly known as the D & J Industries property situated on Big Pine Key, Monroe County, Florida, as more particularly described in Exhibit "A" attached hereto and made a part hereof for all purposes (the "Land"), together with all of Seller's right, title and interest, if any, in and to the following:

(a) all rights, privileges and easements appurtenant to Seller's interest in the Land, if any, (collectively, the "Appurtenances");


(b) all improvements and fixtures located on the Land, if any, as well as all buildings and structures presently located on the Land, including, without limitation, all apparatus, equipment and appliances used in connection with the operation or occupancy of the Land or any of the foregoing improvements, such as heating and air conditioning systems and facilities used to provide any utility, refrigeration, ventilation, garbage disposal or other services, and all on-site parking, if any (collectively, the "Improvements").


Section 1.2 The Property. The Land and all of Seller's right, title and interest, if any, in and to the items referred to in subparagraphs (a) through (b) above are collectively referred to herein as the "Property."

Section 1.3 Purchase Price and Deposit.

(a) The purchase price of the Property is One Million Fifty Thousand and No/100 U.S. Dollars (\$1,050,000.00) (the "Purchase Price") and shall be paid by Buyer to Seller by wire transfer in immediately available funds at the closing of the purchase and sale contemplated hereunder (the "Closing").

Buyer has deposited in escrow with Kaufman Dickstein & Grunspan, P.A., Wachovia Financial Center, Suite 4650, 200 South Biscayne Boulevard, Miami, Florida 33131, Attention: Alan Grunspan, Esq. (escrow) (Telephone No. 305-372-5200) (the "Escrow Agent"), a cash deposit in immediately available funds in the amount of Ten and No/100 U.S. Dollars (\$10.00) (such deposit and any interest thereon and any additions thereto, the "Deposit"). The Deposit shall be held in a non-interest bearing account. Except as otherwise provided in this Agreement, the Deposit shall become non-refundable upon the expiration of the Conditions Period (as defined below).


Seller's initials


Buyer's initials

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Section 1.4 Title to the Property. At the Closing, Seller shall convey, transfer and assign to Buyer title to the Land and Improvements, subject to the Permitted Exceptions, as defined below, by a duly executed and acknowledged Special Warranty Deed in the form attached hereto as Exhibit "B" and made a part hereof for all purposes.

ARTICLE II

CONDITIONS

Section 2.1 Conditions Period. During the period (the "Conditions Period") from the Effective Date until 5:00 p.m. (Dallas, Texas time) on the day that is sixty (60) days after the Effective Date (the "Conditions Period"), Buyer, or its consultants, shall have the right to conduct due diligence with respect to the Property. During the Conditions Period, Seller shall make the Property available to Buyer and its agents, consultants and engineers for such inspections and tests as Buyer deems appropriate. Prior to its entry onto the Property, Buyer shall provide Seller certificates of insurance showing such coverages and amounts of insurance as Seller shall reasonably require. In the event that Buyer deems it necessary to perform any drilling or soil tests on the Property prior to the expiration of the Conditions Period, Buyer shall provide written notice to Seller requesting permission from Seller to take soil samples from or drill soil borings into the Property and such notice shall state the location on the Property where Buyer would like to drill soil borings or take soil samples. Seller may refuse to permit Buyer to take soil samples or drill soil borings into the Property in its sole discretion and shall notify Buyer of such denial of permission in writing. In the event Seller denies Buyer permission to take soil samples from or drill soil borings into the Property at the location(s) requested, Buyer may terminate this Agreement by providing written notice to Seller prior to the expiration of the Conditions Period and in such event neither party shall have any further rights or obligations hereunder, except for the indemnification obligations provided for in this Section 2.1 and Section 6.1 and Section 9.2 below, all of which shall survive the Closing or, if the purchase and sale is not consummated, any termination of this Agreement. Prior to acquiring the Property, Buyer shall use and disclose information it obtains about the Property solely in connection with its purchase evaluation, except as otherwise required by Florida law. Buyer shall not disclose any such information to any third party, except as otherwise required by Florida law. Buyer hereby agrees to (a) restore the Property to its previous condition promptly following the completion of each such inspection and/or test, and (b) indemnify and hold Seller harmless from and against all loss, cost or damage to the Property or actually incurred by Seller arising out of any inspection of or test relating to any of the Property performed by Buyer or its agents, engineers or consultants; however Buyer shall have no restoration nor indemnification obligations with respect to any conditions that existed prior to Buyer's inspection and/or testing which were not caused by Buyer. If, during the course of Buyer's review of the condition and attributes of the Property during the Conditions Period, Buyer in Buyer's sole discretion determines that the Property is not acceptable for any reason, or no reason at all, Buyer may terminate this Agreement by delivering written notice to Seller prior to the expiration of the Conditions Period. In the event Buyer shall deliver to Seller on or before the expiration of the Conditions Period written notice of Buyer's election to terminate this Agreement pursuant to this Section 2.1, neither party shall have any further rights or obligations hereunder, except for the indemnification obligations provided for in this Section 2.1 and Section 6.1 and Section 9.2 below, all of which shall survive the Closing or, if the purchase and sale is not consummated, any termination of this Agreement. The indemnity obligations contained in this Section 2.1 shall survive the Closing or any termination of this Agreement. Within five (5) days after the Effective Date, Seller shall provide the following items to Buyer, if such items are in Seller's files:

- (a) any survey of the Property that Seller has in its files, if any;
- (b) any environmental report relating to the Property, if any in Seller's files; and
- (c) copies of any plans and specifications relating to the Property, if any in Seller's files.

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ARTICLE III

TITLE

Section 3.1 Preliminary Title Report. Buyer shall be solely responsible for obtaining a preliminary title report ("Title Report") relating to the Property which is desired by Buyer and the cost of any such Title Report shall be paid for by Buyer. Buyer shall provide a copy of the Title Report and any exception documents to Seller upon Buyer's receipt of same. Any and all matters shown on the Title Report and any matters which would be disclosed by a visual inspection and/or accurate survey of the Property are referred to herein as the "Permitted Exceptions."

Section 3.2 Owner's Title Insurance Policy for the Property. Buyer shall be solely responsible for obtaining any title insurance policy ("Title Policy") for the Property which is desired by Buyer and the cost of any such Title Policy shall be paid for by Buyer.

Section 3.3 Seller's Disclosure. At the time of execution of this Agreement, Buyer acknowledges that Seller has advised and hereby advises Buyer that Buyer should have the Title Report examined by an attorney of Buyer's own selection.

Section 3.4 Survey. Buyer shall be solely responsible for obtaining any survey of the Land which is desired by Buyer and the cost of any such survey shall be paid for by Buyer.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES, COVENANTS, AND INDEMNIFICATION

Section 4.1 Representations and Warranties of Seller. Seller hereby makes the following representations and warranties, which representations and warranties shall be true and correct as of the date of execution of this Agreement and as of the Closing Date:

(a) Seller has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by Seller's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Seller's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Seller's assets, (v) admitted in writing its inability to pay its debts as they come due or (vi) made an offer of settlement, extension or composition to its creditors generally.

(b) Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended (the "Code") and any related regulations.

(c) This Agreement has been duly authorized, executed and delivered by Seller.

(d) Except as previously disclosed to Buyer, Seller has not received any written notices from any governmental authority with jurisdiction over the Property that the Property is in violation of any environmental laws applicable to the Property.

SELLER ACQUIRED THE PROPERTY THROUGH FORECLOSURE AND CONSEQUENTLY SELLER HAS LITTLE, IF ANY, KNOWLEDGE OF THE PHYSICAL OR ECONOMIC CHARACTERISTICS OF THE PROPERTY. ACCORDINGLY, SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ZONING, AVAILABILITY OF WATER OR OTHER UTILITIES, SOIL CONDITIONS, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION, OPERATING HISTORY OR

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PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, GOVERNMENTAL REGULATIONS, THE TRUTH, ACCURACY OR COMPLETENESS OF THE ITEMS OR ANY OTHER INFORMATION PROVIDED BY OR ON BEHALF OF SELLER TO BUYER OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. UPON CLOSING SELLER SHALL SELL AND CONVEY TO BUYER AND BUYER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS." BUYER HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF SELLER WITH RESPECT TO THE PROPERTY. BUYER WILL CONDUCT SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS BUYER DEEMS NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF SELLER. UPON CLOSING, BUYER SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY BUYER'S INVESTIGATIONS. BUYER, UPON CLOSING, HEREBY WAIVES, RELINQUISHES AND RELEASES SELLER FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT (I.E., NEGLIGENCE AND STRICT LIABILITY)), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH BUYER MIGHT HAVE ASSERTED OR ALLEGED AGAINST SELLER AT ANY TIME BY REASON OF OR ARISING OUT OF ANY CONSTRUCTION DEFECTS, PHYSICAL AND ENVIRONMENTAL CONDITIONS, THE VIOLATION OF ANY APPLICABLE LAWS AND ANY AND ALL OTHER MATTERS REGARDING THE PROPERTY. BUYER, UPON CLOSING, SHALL AUTOMATICALLY INDEMNIFY AND HOLD SELLER HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT (I.E., NEGLIGENCE AND STRICT LIABILITY)), LOSS, DAMAGE, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, FIXED OR CONTINGENT, ASSERTED AGAINST OR INCURRED BY SELLER AT ANY TIME BY REASON OF OR ARISING OUT OF THE VIOLATION OF ANY APPLICABLE LAWS PERTAINING TO ANY ADVERSE PHYSICAL OR ENVIRONMENTAL CONDITION PLACED OR OCCURRING ON THE PROPERTY AFTER THE CLOSING DATE. SHOULD ANY CLEAN-UP, REMEDIATION OR REMOVAL OF HAZARDOUS SUBSTANCES OR OTHER ENVIRONMENTAL CONDITIONS ON THE PROPERTY BE REQUIRED AFTER THE CLOSING DATE, IT IS HEREBY UNDERSTOOD AND AGREED THAT SUCH CLEAN-UP, REMOVAL OR REMEDIATION SHALL BE THE RESPONSIBILITY OF AND SHALL BE PERFORMED AT THE SOLE COST AND EXPENSE OF BUYER. THE TERMS, CONDITIONS, OBLIGATIONS AND INDEMNITIES OF THIS SECTION 4.1 SHALL EXPRESSLY SURVIVE THE CLOSING AND NOT MERGE THEREIN.

AS USED HEREIN, THE TERM "HAZARDOUS SUBSTANCES" SHALL MEAN ANY SUBSTANCE WHICH IS OR CONTAINS (I) ANY "HAZARDOUS SUBSTANCE" AS NOW OR HEREAFTER DEFINED IN §101(14) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, AS AMENDED (42 U.S.C. §9601 *ET SEQ.*) ("CERCLA") OR ANY REGULATIONS PROMULGATED UNDER CERCLA; (II) ANY "HAZARDOUS WASTE" AS NOW OR HEREAFTER DEFINED IN THE RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C. §6901 *ET SEQ.*) ("RCRA") OR REGULATIONS PROMULGATED UNDER RCRA; (III) ANY SUBSTANCE REGULATED BY TOXIC SUBSTANCES CONTROL ACT (15 U.S.C. §2601 *ET SEQ.*); (IV) GASOLINE, DIESEL FUEL, OR OTHER PETROLEUM HYDROCARBONS; (V) ASBESTOS AND ASBESTOS CONTAINING MATERIALS, IN ANY FORM, WHETHER FRIABLE OR NON-FRIABLE; (VI) POLYCHLORINATED BIPHENYLS; (VII) RADON GAS AND MOLDS; AND (VIII) ANY ADDITIONAL SUBSTANCES OR MATERIALS WHICH ARE NOW OR HEREAFTER CLASSIFIED OR CONSIDERED TO BE HAZARDOUS OR TOXIC UNDER ANY APPLICABLE FEDERAL OR STATE LAWS RELATING TO ANY OF THE PROPERTY. HAZARDOUS SUBSTANCES SHALL INCLUDE, WITHOUT LIMITATION, ANY SUBSTANCE, THE PRESENCE OF WHICH ON THE PROPERTY, (A) REQUIRES REPORTING, INVESTIGATION OR REMEDIATION UNDER APPLICABLE LAW, (B) CAUSES OR THREATENS TO CAUSE A NUISANCE ON THE PROPERTY OR ADJACENT PROPERTY OR POSES OR THREATENS TO POSE A HAZARD TO THE HEALTH OR SAFETY OF PERSONS ON THE PROPERTY OR ADJACENT PROPERTY; OR (C) WHICH, IF IT EMANATED OR MIGRATED FROM THE PROPERTY, COULD CONSTITUTE A TRESPASS.

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BUYER REPRESENTS AND WARRANTS TO SELLER THAT BUYER HAS KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT ENABLE BUYER TO EVALUATE THE MERITS AND RISKS OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT. FURTHER, BUYER ACKNOWLEDGES THAT IT IS NOT IN A DISPARATE BARGAINING POSITION RELATIVE TO SELLER WITH RESPECT TO THIS AGREEMENT.


Buyer's initials


Seller's initials

Section 4.2 Representations and Warranties of Buyer. Buyer hereby makes the following representations and warranties, which representations and warranties shall be true and correct as of the date of execution of this Agreement and as of the Closing Date:

(a) This Agreement (i) has been duly executed and delivered by Buyer, (ii) is the legal, valid and binding obligation of Buyer, and (iii) does not violate any provision of any agreement or judicial order to which Buyer is a party or to which Buyer is subject. All documents to be executed by Buyer which are to be delivered to Seller at Closing (x) at the time of Closing will be duly executed and delivered by Buyer, (y) at the time of Closing will be legal, valid and binding obligations of Buyer, and (z) at the time of Closing will not violate any provision of any agreement or judicial order to which Buyer is a party or to which Buyer is subject.

(b) Buyer has not (i) made a general assignment for the benefit of creditors, (ii) filed any voluntary petition in bankruptcy or suffered the filing of an involuntary petition by Buyer's creditors, (iii) suffered the appointment of a receiver to take possession of all, or substantially all, of Buyer's assets, (iv) suffered the attachment or other judicial seizure of all, or substantially all, of Buyer's assets, (v) admitted in writing its inability to pay its debts as they come due or (vi) made an offer of settlement, extension or composition to its creditors generally.

Section 4.3 Survival of Representations and Warranties. The representations and warranties of Seller and Buyer contained herein shall survive the Closing for a period of one (1) year after the Closing; provided, that if a party notifies the other party during such one-year period that any representation or warranty of such other party has been breached during such one-year period, then the notifying party shall have until the later of (a) a period of six (6) months following the date of such notification of the notifying party and (b) the expiration of such one-year period in which to initiate a lawsuit against the other party with respect to such a breach. Any claim that a party may have at any time against the other party for breach of any such representation or warranty, whether known or unknown, which is not asserted by written notice to the breaching party within such one-year period shall not be valid or effective, and the breaching party shall have no liability with respect thereto.

ARTICLE V

Intentionally Deleted

ARTICLE VI

BROKERS AND EXPENSES

Section 6.1 Broker. The parties represent and warrant to each other that, with the exception of a commission in the amount equal to six percent (6%) of the Purchase Price, to be paid by Seller to American Caribbean Real Estate, Middle Keys (the "Broker"), such commission being due and payable only in the event the sale of the Property pursuant to this Agreement actually closes in accordance with the terms hereof and the Purchase Price is unconditionally paid to Seller, no broker or finder was instrumental in arranging or bringing about this transaction and that there are no claims or rights for brokerage commissions or finder's fees in connection with the transaction contemplated by this Agreement. If any person (other than Broker) brings a claim for a commission or finder's fee based upon any contact, dealings or communication with Buyer or Seller, then the party through whom

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such person makes his claim shall defend the other party (the "Indemnified Party") from such claim, and shall indemnify the Indemnified Party and hold the Indemnified Party harmless from any and all costs, damages, claims, liabilities or expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the Indemnified Party in defending against the claim. The provisions of this Section 6.1 shall survive the Closing or, if the purchase and sale is not consummated, any termination of this Agreement.

Section 6.2 Expenses. Except as provided in Section 8.4(b) below or elsewhere in this Agreement, each party hereto shall pay its own expenses incurred in connection with this Agreement and the transactions contemplated hereby.

ARTICLE VII

Intentionally Deleted

ARTICLE VIII

CLOSING AND ESCROW

Section 8.1 Intentionally Deleted.

Section 8.2 Closing. The Closing hereunder shall be held (either by mail or in person), and delivery of all items to be made at the Closing under the terms of this Agreement shall be made (either by mail or in person), at the offices of the Escrow Agent or such other place mutually agreed to by the parties, prior to 5:00 p.m. Dallas, Texas time on or before the date that is ten (10) days after the date of expiration of the Conditions Period (the "Closing Date"). Such date and time may not be extended without the written approval of both Seller and Buyer.

Section 8.3 Deposit of Documents.

(a) At or before the Closing, Seller shall deposit into escrow with the Escrow Agent the following items:

- (i) one (1) duly executed and acknowledged original of the Deed in the form of Exhibit "B" attached hereto;
- (ii) three (3) duly executed originals of a Quit-claim Bill of Sale ("Bill of Sale") relating to any personal property being sold, if any, in the form of Exhibit "C" attached hereto; and
- (iii) an affidavit pursuant to Section 1445(b)(2) of the Internal Revenue Code (the "Code") in a form complying with the requirements of the Code, and on which Buyer is entitled to rely, that Seller is not a "foreign person" within the meaning of Section 1445(f)(3) of the Code.

(b) At or before Closing, Buyer shall deposit into escrow with the Escrow Agent and/or cause the Escrow Agent to issue and deliver to Seller the following items:

- (i) immediately available funds necessary to close this transaction, subject to any adjustments to be made pursuant to the terms and provisions of this Agreement;
- (ii) three (3) duly executed originals of the Bill of Sale;
- (iii) three (3) duly executed originals of an As-Is Certificate in the form of Exhibit "D" attached hereto;

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- (iv) two (2) duly executed originals of a Taxpayer ID Certificate in a form as required by Seller; and
- (v) such evidence of Buyer's authority to acquire the Property as Seller shall reasonably require.

(c) Buyer and Seller shall each deposit such other instruments as are reasonably required by the Escrow Agent or otherwise required to close the purchase and sale of the Property in accordance with the terms hereof, including, without limitation, excise tax affidavits, escrow instructions consistent with the terms hereof and an agreement (the "Designation Agreement") designating the Escrow Agent as the "Reporting Person" for the transaction pursuant to Section 6045(e) of the Code and the regulations promulgated thereunder, and executed by Seller, Buyer and the Escrow Agent. The Designation Agreement shall comply with the requirements of Section 6045(e) of the Code and the regulations promulgated thereunder.

Section 8.4 Prorations.

(a) The following shall all be prorated as of 12:01 a.m. on the Closing Date, on the basis of a 365-day year: (i) real property taxes and assessments for the year in which the Closing occurs, (ii) water, sewer and utility charges, (iii) amounts payable under any service contracts for the month in which the Closing occurs and prior months, (iv) annual permits and/or inspection fees (calculated on the basis of the period covered), (v) rents due from tenants, if any, of any part of the Property and (vi) any other expenses relating to the operation and maintenance of the Property. Seller and Buyer hereby agree that if any of the aforesaid prorations cannot be calculated accurately on the Closing Date, then the same shall be calculated within thirty (30) days after the Closing Date, or as soon as sufficient information is available to permit the parties to accurately calculate such proration(s), and either party owing the other party a sum of money based on such subsequent proration(s) shall pay said sum to the other party within ten (10) days after such calculation is made; provided however, that the tax prorations and assessments referenced in (i) of this Section 8.4(a) shall be final as of the Closing. The provisions of this Section 8.4(a) shall survive the Closing.

(b) Buyer shall pay the premium for the Title Policy. Any additional endorsements to the Title Policy or any other insurance coverages shall be paid for by Buyer; including, without limitation, any payments for the deletion of the "survey exception" in the Title Policy. Buyer shall pay all expenses associated with the performance of Buyer's due diligence pursuant to Section 2.1 above. Escrow fees, excise tax and recording charges and any other expenses of the escrow for the sale shall be paid for by Buyer. Buyer shall pay the costs of the execution and filing of the Deed. Seller shall pay the costs for the documentary stamps relating to the Deed, if any. Buyer shall pay all costs and expenses associated with any third-party financing. All costs and charges described in this paragraph shall be paid at Closing. Any bills received after the Closing and not previously prorated in escrow shall be divided as provided herein, and shall be paid promptly upon receipt of a bill therefor, and any and all other costs and expenses relating to the purchase and sale transaction contemplated hereby shall be paid by the party incurring same. The provisions of this Section 8.4(b) shall survive the Closing.

ARTICLE IX


PROVISIONS WITH RESPECT TO DEFAULT


Section 9.1 Default by Seller. In the event Seller fails to consummate the transactions contemplated herein for any reason (except in the event of a breach or violation by Buyer of any representation or warranty of Buyer set forth herein, a failure by Buyer to perform its obligations hereunder or to consummate the transactions contemplated herein or the termination hereof pursuant to a right granted to Buyer or Seller hereunder to do so) or if Seller has breached a representation or warranty that prevents the consummation of the purchase and sale, Buyer may either (i) terminate this Agreement by notifying Seller thereof, and thereupon shall be entitled to a return of the Deposit, as its sole and exclusive remedy and relief hereunder, or (ii) enforce specific performance of this

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Agreement, as its sole and exclusive remedy and relief hereunder. Seller shall not be liable to Buyer for any actual, punitive, speculative, consequential or other damages. Buyer hereby waives any and all remedies and relief except as provided in (i) and (ii) above.

Section 9.2 Default by Buyer. IF THE SALE AND PURCHASE OF THE PROPERTY CONTEMPLATED BY THIS AGREEMENT IS NOT CONSUMMATED BECAUSE OF BUYER'S DEFAULT, SELLER, AS ITS SOLE AND EXCLUSIVE REMEDY, SHALL TERMINATE THIS AGREEMENT BY NOTIFYING BUYER IN WRITING THEREOF, AND THEREUPON SHALL BE ENTITLED TO THE DEPOSIT, AS ITS SOLE AND EXCLUSIVE REMEDY AND RELIEF HEREUNDER AND AS LIQUIDATED DAMAGES FOR SUCH DEFAULT OF BUYER. IT IS HEREBY AGREED THAT SELLER'S DAMAGES IN THE EVENT OF A DEFAULT BY BUYER HEREUNDER ARE UNCERTAIN AND EXTREMELY DIFFICULT TO ASCERTAIN, AND THAT THE DEPOSIT CONSTITUTES A REASONABLE PRE-ESTIMATE OF SUCH DAMAGES AND SELLER'S RETENTION THEREOF IS INTENDED NOT AS A PENALTY, BUT AS FULL LIQUIDATED DAMAGES. THE RIGHT TO RETAIN THE DEPOSIT AS FULL LIQUIDATED DAMAGES IS SELLER'S SOLE AND EXCLUSIVE REMEDY IN THE EVENT OF DEFAULT HEREUNDER BY BUYER, EXCEPT, HOWEVER, FOR THE INDEMNIFICATION OBLIGATIONS OF BUYER UNDER THIS AGREEMENT, FOR THE BREACH OF WHICH SELLER MAY EXERCISE ANY AND ALL RIGHTS OR REMEDIES AVAILABLE AT LAW OR IN EQUITY. THE PROVISIONS OF THIS SECTION 9.2 SHALL SURVIVE THE CLOSING OR ANY TERMINATION OF THIS AGREEMENT.


Buyer's initials


Seller's initials

ARTICLE X

MISCELLANEOUS

Section 10.1 Notices. Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered either (i) in person, including, without limitation, delivery by a courier that provides a receipt, (ii) by certified mail, postage prepaid, return receipt requested, (iii) by a commercial overnight courier that guarantees next day delivery and provides a receipt or (iv) by telefacsimile, provided such notice is also given in one of the methods described in clauses (i)-(iii) above, and such notices shall be addressed as follows:

To Seller: Beal Bank, S.S.B.
6000 Legacy Drive
Plano, Texas 75024
Attn: Mr. Mike Wyant
Fax No.: (469) 241-9563
Tel. No.: (469) 467-5512

With a copy to: Melissa Mallery, Esq.
Jenkins & Gilchrist, a Professional Corporation
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202
Fax No. (214) 855-4300
Tel. No.: (214) 855-4890

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To Buyer: Monroe County Land Authority
1200 Truman Avenue
Suite 207
Key West, FL 33040
Attn: Mr. Mark J. Rosch
Fax No.: (305) 295-5181
Tel. No.: (305) 295-5180

With a copy to: Suzanne Hutton, Esq.
P.O. Box 1026
Key West, FL 33041-1026
Fax No.: (305) 295-5181
Tel. No.: (305) 292-3470

or to such other address as either party may from time to time specify in writing to the other party. Any notice shall be effective only upon delivery. Telefacsimile messages shall be effective on the date the party sending such message receives electronic confirmation of the successful transmission of such message.

Section 10.2 Entire Agreement. This Agreement, together with the Exhibits hereto, contains all representations, warranties and covenants made by Buyer and Seller and constitutes the entire understanding between the parties hereto with respect to the subject matter hereof. Any prior correspondence, memoranda, letters of intent or agreements are replaced in total by this Agreement together with the Exhibits hereto. Neither this Agreement nor any memorandum hereof may be recorded.

Section 10.3 Time. Time is of the essence in the performance by each of the parties of their respective obligations contained herein. In the event that a date for performance of any obligation under this Agreement or expiration of any time period falls on a Saturday, Sunday or a holiday on which national banks are required to be closed, the date for performance of such obligation or expiration of such time period shall be adjusted to be the next occurring calendar day which is not a Saturday, Sunday or bank holiday.

Section 10.4 Attorneys' Fees. If either party hereto fails to perform any of its obligations under this Agreement or if any dispute arises between the parties hereto concerning the meaning or interpretation of any provision of this Agreement, then the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party on account of such default and/or in enforcing or establishing its rights hereunder, including, without limitation, court costs and reasonable attorneys' fees and disbursements. Any such attorneys' fees and other expenses incurred by either party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment, and such attorneys' fees obligation is intended to be severable from the other provisions of this Agreement and to survive and not be merged into any such judgment. The provisions of this Section shall control over any conflicting provision contained in this Agreement.

Section 10.5 Assignment. Buyer's rights and obligations hereunder shall not be assignable without the prior written consent of Seller, which consent may be given or withheld in Seller's sole and absolute discretion. Any assignment of this Agreement made without the express written consent of Seller shall be void and of no force or effect.

Section 10.6 Counterparts and Facsimile Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument. Facsimile signatures hereon shall be treated for all purposes as original signatures.

Section 10.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. The venue for any litigation shall be in Monroe County, Florida.

Section 10.8 Amendments. This Agreement may be amended or modified only by a written instrument signed by Buyer and Seller.

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Section 10.9 Drafts Not an Offer to Enter into a Legally Binding Contract. The parties hereto agree that the submission of a draft of this Agreement by one party to another is not intended by either party to be an offer to enter into a legally binding contract with respect to the purchase and sale of the Property. The parties shall be legally bound with respect to the purchase and sale of the Property pursuant to the terms of this Agreement only if and when the parties have been able to negotiate all of the terms and provisions of this Agreement in a manner acceptable to each of the parties in their respective sole discretions, including, without limitation, all of the Exhibits hereto, and both Seller and Buyer have fully executed and delivered to each other a counterpart of this Agreement, including, without limitation, all Exhibits hereto.

Section 10.10 No Partnership. The relationship of the parties hereto is solely that of seller and buyer with respect to the Property and no joint venture or other partnership exists between the parties hereto. Neither party has any fiduciary relationship hereunder to the other.

Section 10.11 Consideration. The parties acknowledge that sufficient consideration was given to make this contract legally enforceable, including Buyer's obligation to conduct tests and evaluations of the Property, to pay the Deposit and to indemnify Seller.

Section 10.12 Confidentiality. The parties hereto covenant and agree that they shall not communicate the terms, the results of any tests or inspections conducted pursuant hereto or any other aspects of this transaction prior to the Closing with any person or entity other than the Title Company and the other party and their respective agents, consultants, attorneys, financial advisors, accountants, and employees, and shall treat the terms of this Agreement in a confidential manner, except as otherwise required by Florida law.

Section 10.13 Severability. If any provision of this Agreement is held to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and the remainder of this Agreement shall be construed and interpreted as if such invalid, illegal or unenforceable provision had never been contained herein.

Section 10.14 Exhibits. The exhibits specified are attached to this Agreement and by this reference made a part hereof and are subject to revision prior to Closing.

Section 10.15 Waiver of Jury Trial. As part of the consideration for this Agreement, each of the parties hereto waives the right to trial by jury in connection with any dispute or action under this Agreement.

Section 10.16 Ethics Clause. Seller warrants that it has not employed, retained or otherwise had act on its behalf any former Monroe County officer or employee in violation of Section 2 or Ordinance No. 10-1990 or any Monroe County officer or employee in violation of Section 3 of Ordinance No. 10-1990. For breach or violation of this provision Buyer may, at its discretion terminate this Agreement without liability or may also, at its discretion, deduct from the agreement or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former or present Monroe County officer or employee.

Section 10.17 Public Entity Crime Statement. A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on an agreement to provide any goods or services to a public entity, may not submit a bid on a agreement with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under an agreement with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

Section 10.18 Anti-Kickback. Seller warrants that no person, other than the Broker, has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of Monroe County or the Monroe County Tourist Development Council has any interest, financially or otherwise, in the said funded project, except for general membership. For breach or violation of this warranty, Buyer shall have the right to annul this Agreement without

Agreement of Purchase and Sale
Big Pine Key

liability or, in its discretion, to deduct from the Agreement price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

Section 10.19 Seller's Authority. Seller warrants that it is authorized by law to engage in the performance of the activities encompassed by the project herein described. Each of the signatories for Seller below certifies and warrants that Seller's name in this Agreement is the full name as designated in its charter; they are empowered to act and contract for Seller, and this Agreement has been approved by the Board of Directors of Seller or other appropriate authority.

Section 10.20 Buyer's Authority. Buyer warrants that it is authorized by law to engage in the performance of the activities encompassed by the project herein described. Each of the signatories for Buyer below certifies and warrants that Buyer's name in this Agreement is the full name as designated in its charter; they are empowered to act and contract for Buyer, and this Agreement has been approved by the Board of Directors of Buyer or other appropriate authority.

Section 10.21 Radon. Under the laws of the State of Florida, Seller hereby advises that Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of Radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding Radon and Radon testing may be obtained from your county public health unit. Seller has not conducted any testing for Radon in the Improvements, and Seller makes no representation to Buyer concerning the presence or absence of Radon Gas in the Improvements at any time or in any quantity. Buyer hereby expressly releases Seller from any loss, claim, liability or damage now or hereafter arising from or related to the presence at any time of Radon Gas in the Improvements.

Section 10.22 Energy Efficiency Rating. Pursuant to Florida Statutes Section 553.996, Buyer may have the energy efficiency rating of the building being purchased determined. (Check 1 or 2 below.)

- ☒ 1. Buyer does not request that the energy efficiency rating of the building be determined.
- ☐ 2. Buyer requests that the rating be determined as follows: The inspection conducted to determine the rating shall take place within fifteen (15) days from the effective date of this Agreement. Buyer will select an inspector qualified under the rules of the Department of Community Affairs to make the determination. The cost of obtaining the rating will be paid by Buyer. The Agreement is not contingent on Buyer approving the rating. Buyer wants the rating determined solely for Buyer's information.

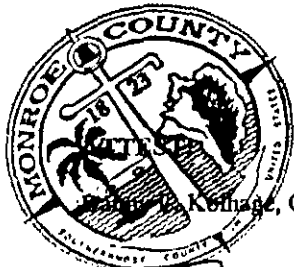
[SIGNATURE PAGE FOLLOWS]

Agreement of Purchase and Sale
Big Pine Key

The parties hereto have executed this Agreement as of the date first written above.

ATTEST:

Kim Shipman
Name: Kim Shipman



Pamela G. Hancock, Clerk

By: Pamela G. Hancock
Name: Pamela G. Hancock
Title: Deputy Clerk

SELLER:

BEAL BANK, S.S.B.,
a state savings bank organized under the laws of the State of Texas

By: W.E. Hester
Name: Kente Twitchell
Title: Assistant Vice President

BUYER:

**MONROE COUNTY BOARD OF COUNTY
COMMISSIONERS OF MONROE COUNTY, FLORIDA**

By: Murray E. Nelson
Name: Murray E. Nelson
Title: Chairman/Mayor

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

Suzanne A. Hutton
SUZANNE A. HUTTON
ASSISTANT COUNTY ATTORNEY
Date: 1/30/04

FILED FOR RECORD
2004 FEB 27 PM 1:00
DANNY L. KOLHAGE
CLERK
MONROE COUNTY, FLA.

Agreement of Purchase and Sale
Big Pine Key

JOINDER OF THE BROKER

The Broker joins in the execution of this Agreement for the sole purpose of evidencing its agreement with the provisions of Section 6.1 herein.

AMERICAN CARIBBEAN REAL ESTATE, MIDDLE
KEYS

By: Donald Van Essestine
Name: Donald Van Essestine
Title: Broker / Owner

JOINDER OF THE ESCROW AGENT

The Escrow Agent joins in the execution of this Agreement for the purpose of acknowledging the Escrow Agent's receipt of an executed copy of this Agreement and the Deposit.

KAUFMAN DICKSTEIN & GRUNSPAN, P.A.

By: _____
Name: _____
Title: _____

Agreement of Purchase and Sale
Big Pine Key

EXHIBIT "A" TO PURCHASE AND SALE AGREEMENT

THE LAND

Parcel I

TRACT no. 3, as per unrecorded sketch of Tropic-Island Ranchetts, Big Pine Key, Florida and now particularly described by metes and bounds as follows:

On the island of Big Pine Key, Monroe County, Florida, begin at the center of Section 26, Township 66 South, Range 29 East; thence run due Westerly 548.75 feet to the POINT OF BEGINNING; thence continue due Westerly 299.375 feet; thence run due Southerly 160.0 feet; thence run due Easterly 299.375 feet; thence run due Northerly 160.0 feet to the POINT OF BEGINNING.

Parcel II

Easement for the purpose of vehicular and pedestrian ingress and egress as reserved in Special Warranty Deed from Carnival Fruit Company, a Florida corporation, to Bruce H. Seigal and Leda Grodsky Seigal, his wife, dated August 27, 1990, recorded August 27, 1990 in Official Records Book 1142, at Page 1544, of the Public Records of Monroe County, Florida.

THIS INSTRUMENT WAS PREPARED BY:
Melissa M. Mallery, Esq.
Jenkins & Gilchrist, a Professional Corporation
1445 Ross Avenue, Suite 3200
Dallas, Texas 75202

AFTER RECORDING RETURN TO:
Meyer & Erskine, P.A.
31211 Avenue A
Big Pine Key, Florida 33043
Attn: _____

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made this ____ day of _____, 2004, between **BEAL BANK, S.S.B.**, a state savings bank organized under the laws of the State of Texas, whose mailing address is 6000 Legacy Drive, Suite 4E, Plano, Texas 75024, as "**GRANTOR**," and the **MONROE COUNTY BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA**, a political subdivision of the State of Florida, whose mailing address is _____, as "**GRANTEE**."

(Wherever used herein, the terms "**GRANTOR**" and "**GRANTEE**" shall include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH:

That the GRANTOR, for and in consideration of the sum of TEN AND NO/100 U.S. DOLLARS (\$10.00) and other good and valuable consideration in hand paid to GRANTOR by said GRANTEE, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, remise, release, convey and confirm unto the GRANTEE the following described real property, and rights and interest in real property located and situated in the County of Monroe and State of Florida (the "**Property**").

(FOR LEGAL DESCRIPTION, SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF BY SPECIFIC REFERENCE.)

Property Tax Identification Nos.: RE # _____

THIS CONVEYANCE IS SUBJECT TO THE FOLLOWING:

1. Taxes and assessments for the year 2004, and all subsequent years;
2. Covenants, conditions, reservations, restrictions, limitations, dedications, easements and other matters of record, without intending to reimpose the same;
3. Applicable zoning and other governmental restrictions and regulations; and
4. (Other Permitted Exceptions to be inserted prior to Closing).

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in any way appertaining.

TO HAVE AND TO HOLD the same in fee simple forever.

THE GRANTOR HEREBY SPECIALLY WARRANTS the title to the Property and will defend the same against the lawful claims of all persons claiming by, through or under the said GRANTOR.

[SIGNATURE AND NOTARY PAGE FOLLOWS]

Agreement of Purchase and Sale
Big Pine Key

IN WITNESS WHEREOF, the GRANTOR has hereunto set its hand and seal as of the day and year first above written.

GRANTOR:

Signed, sealed and delivered
in our presence:

BEAL BANK, S.S.B.,
a state savings bank organized under the laws of the State of
Texas

Witness: _____
Print Name: _____

By: _____
Name: _____
Title: _____

Witness: _____
Print Name: _____

STATE OF TEXAS §
 §
COUNTY OF COLLIN §

The foregoing instrument was acknowledged before me this ____ day of _____, 2004, by _____, as _____ of _____, a _____. He/She is personally known to me (_____) or has produced _____, as identification.

Notary Public

(Name - Please Print)

My Commission Expires:

Commission No.: _____

Agreement of Purchase and Sale
Big Pine Key

EXHIBIT "A"

THE LAND

Parcel I

TRACT no. 3, as per unrecorded sketch of Tropic-Island Ranchetts, Big Pine Key, Florida and now particularly described by metes and bounds as follows:

On the island of Big Pine Key, Monroe County, Florida, begin at the center of Section 26, Township 66 South, Range 29 East; thence run due Westerly 548.75 feet to the POINT OF BEGINNING; thence continue due Westerly 299.375 feet; thence run due Southerly 160.0 feet; thence run due Easterly 299.375 feet; thence run due Northerly 160.0 feet to the POINT OF BEGINNING.

Parcel II

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Agreement of Purchase and Sale
Big Pine Key

EXHIBIT "C" TO PURCHASE AND SALE AGREEMENT

QUIT-CLAIM BILL OF SALE

THIS QUIT-CLAIM BILL OF SALE (this "Bill of Sale") is made and entered into effective as of the ____ day of _____, 2004, by and between BEAL BANK, S.S.B., a state savings bank organized under the laws of the State of Texas ("Assignor"), and MONROE COUNTY BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, a political subdivision of the State of Florida (the "Assignee").

WITNESSETH:

A. Concurrently with the execution and delivery hereof, Assignor is conveying unto Assignee by Special Warranty Deed, executed and delivered by Assignor, as grantor, unto Assignee, as grantee, dated of even date herewith:

(a) That certain tract of land (the "Land") lying and being situated in the County of Monroe, State of Florida, and being more particularly described on Exhibit "A" attached hereto and made a part hereof for all purposes; and

(b) All rights, privileges and easements appurtenant to Assignor's interest in the Land, but specifically excluding any property of any tenant under any lease (the "Appurtenances").

B. Assignee desires to purchase from Assignor, and Assignor desires to quit-claim and assign, to the extent assignable, and transfer unto Assignee all of Assignor's right, title and interest, if any, in all fixtures, appliances, equipment, names and other items of tangible and intangible personal property, if any, situated upon or used exclusively in connection with the Land and the Appurtenances (such right, title and interest of Assignor, if any, is herein referred to as the "Property").

NOW, THEREFORE, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration in hand paid by Assignee to Assignor, the receipt and sufficiency of which are hereby acknowledged and confessed by Assignor, Assignor does hereby QUIT-CLAIM unto Assignee, its successors and assigns, all of the right, title and interest of Assignor, if any, in the Property. This Bill of Sale does not affect the property of any tenant under any lease affecting the Land.

THE PROPERTY IS SOLD AND CONVEYED BY ASSIGNOR AND ACCEPTED BY ASSIGNEE "AS IS," "WHERE IS" AND "WITH ALL FAULTS," AND WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND. ASSIGNOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IN RESPECT OF THE PROPERTY, AND THE SAME IS SOLD IN "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS. BY EXECUTION OF THIS BILL OF SALE, ASSIGNEE AFFIRMS THAT IT HAS NOT RELIED ON ASSIGNOR'S SKILL OR JUDGMENT TO SELECT OR FURNISH THE PROPERTY FOR ANY PARTICULAR PURPOSE, AND THAT ASSIGNOR MAKES NO WARRANTY THAT THE PROPERTY IS FIT FOR ANY PARTICULAR PURPOSE, AND THAT THE PROPERTY IS BEING SOLD TO ASSIGNEE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY.

TO HAVE AND TO HOLD the Property unto Assignee, its successors and assigns, forever. All of the covenants, terms and conditions set forth herein shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

Agreement of Purchase and Sale
Big Pine Key

IN WITNESS WHEREOF, Assignor and Assignee have caused this Bill of Sale to be executed effective as of the day and year first above written.

ASSIGNOR:

ATTEST:

BEAL BANK, S.S.B.,
a state savings bank organized under the
laws of the State of Texas

Name: _____

By: _____
Name: _____
Title: _____

ASSIGNEE:

ATTEST:

**MONROE COUNTY BOARD OF COUNTY
COMMISSIONERS OF MONROE COUNTY, FLORIDA**

By: _____
Name: _____
Title: _____

Agreement of Purchase and Sale
Big Pine Key

EXHIBIT A

Parcel I

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Parcel II

Easement for the purpose of vehicular and pedestrian ingress and egress as reserved in Special Warranty Deed from Carnival Fruit Company, a Florida corporation, to Bruce H. Seigal and Leda Grodsky Seigal, his wife, dated August 27, 1990, recorded August 27, 1990 in Official Records Book 1142, at Page 1544, of the Public Records of Monroe County, Florida.

Agreement of Purchase and Sale
Big Pine Key

EXHIBIT "D" TO PURCHASE AND SALE AGREEMENT

AS-IS CERTIFICATE

This As-Is Certificate (this "Certificate") dated this ____ day of January, 2004, is executed and delivered by the MONROE COUNTY BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, a political subdivision of the State of Florida ("Grantee"), unto BEAL BANK, S.S.B., a state savings bank organized under the laws of the State of Texas ("Grantor").

RECITALS

Reference is hereby made to that certain Agreement of Purchase and Sale, dated as of January __, 2004, made and entered into by and between Grantor and Grantee (as amended, the "Agreement"), in connection with the real property described on Exhibit "A" attached hereto and made a part hereof for all purposes. Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Agreement.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantee hereby certifies and confirms unto Grantor the following:

AGREEMENTS

GRANTOR ACQUIRED THE PROPERTY THROUGH FORECLOSURE AND CONSEQUENTLY GRANTOR HAS LITTLE, IF ANY, KNOWLEDGE OF THE PHYSICAL OR ECONOMIC CHARACTERISTICS OF THE PROPERTY. ACCORDINGLY, GRANTOR IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, GOVERNMENTAL REGULATIONS, THE TRUTH, ACCURACY OR COMPLETENESS OF THE ITEMS OR ANY OTHER INFORMATION PROVIDED BY OR ON BEHALF OF GRANTOR TO GRANTEE OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. UPON CLOSING GRANTOR SHALL SELL AND CONVEY TO GRANTEE AND GRANTEE SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS." GRANTEE HAS NOT RELIED UPON AND WILL NOT RELY UPON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF GRANTOR WITH RESPECT TO THE PROPERTY. GRANTEE HAS CONDUCTED SUCH INVESTIGATIONS OF THE PROPERTY, INCLUDING BUT NOT LIMITED TO, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS THEREOF, AS GRANTEE HAS DEEMED NECESSARY TO SATISFY ITSELF AS TO THE CONDITION OF THE PROPERTY AND WILL RELY SOLELY UPON SAME AND NOT UPON ANY INFORMATION PROVIDED BY OR ON BEHALF OF GRANTOR. UPON CLOSING, GRANTEE SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING BUT NOT LIMITED TO, CONSTRUCTION DEFECTS AND ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY GRANTEE'S INVESTIGATIONS. GRANTEE, UPON CLOSING, HEREBY WAIVES, RELINQUISHES AND RELEASES GRANTOR FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT (I.E., NEGLIGENCE AND STRICT LIABILITY), LOSSES, DAMAGES, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, WHICH GRANTEE MIGHT HAVE ASSERTED OR ALLEGED AGAINST GRANTOR AT ANY TIME BY REASON OF OR ARISING OUT OF ANY CONSTRUCTION DEFECTS, PHYSICAL AND ENVIRONMENTAL CONDITIONS, THE VIOLATION OF ANY APPLICABLE LAWS AND ANY AND ALL OTHER MATTERS REGARDING THE PROPERTY. GRANTEE, UPON CLOSING, SHALL AUTOMATICALLY INDEMNIFY AND HOLD GRANTOR HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION (INCLUDING CAUSES OF ACTION IN TORT (I.E., NEGLIGENCE AND STRICT LIABILITY)), LOSS, DAMAGE, LIABILITIES, COSTS AND EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS) OF ANY AND EVERY KIND OR CHARACTER, KNOWN OR UNKNOWN, FIXED OR CONTINGENT, ASSERTED AGAINST OR INCURRED BY GRANTOR AT ANY TIME BY REASON OF OR

Agreement of Purchase and Sale
Big Pine Key

ARISING OUT OF THE VIOLATION OF ANY APPLICABLE LAWS PERTAINING TO ANY ADVERSE PHYSICAL OR ENVIRONMENTAL CONDITION PLACED OR OCCURRING ON THE PROPERTY ON OR AFTER THE CLOSING DATE. SHOULD ANY CLEAN-UP, REMEDIATION OR REMOVAL OF HAZARDOUS SUBSTANCES OR OTHER ENVIRONMENTAL CONDITIONS ON THE PROPERTY BE REQUIRED, IT IS HEREBY UNDERSTOOD AND AGREED THAT SUCH CLEAN-UP, REMOVAL OR REMEDIATION SHALL BE PERFORMED BY GRANTEE. THE TERMS, CONDITIONS, OBLIGATIONS AND INDEMNITIES OF THIS CERTIFICATE SHALL EXPRESSLY SURVIVE THE CLOSING AND NOT MERGE THEREIN.

GRANTEE REPRESENTS AND WARRANTS TO GRANTOR THAT GRANTEE HAS KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS THAT ENABLE GRANTEE TO EVALUATE THE MERITS AND RISKS OF THE TRANSACTION CONTEMPLATED BY THIS CERTIFICATE. FURTHER, GRANTEE ACKNOWLEDGES THAT IT IS NOT IN A DISPARATE BARGAINING POSITION RELATIVE TO GRANTOR WITH RESPECT TO THIS CERTIFICATE.

AS USED HEREIN, THE TERM "HAZARDOUS SUBSTANCES" SHALL MEAN ANY SUBSTANCE WHICH IS OR CONTAINS (I) ANY "HAZARDOUS SUBSTANCE" AS NOW OR HEREAFTER DEFINED IN §101(14) OF THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT OF 1980, AS AMENDED (42 U.S.C. §9601 *ET SEQ.*) ("CERCLA") OR ANY REGULATIONS PROMULGATED UNDER CERCLA; (II) ANY "HAZARDOUS WASTE" AS NOW OR HEREAFTER DEFINED IN THE RESOURCE CONSERVATION AND RECOVERY ACT (42 U.S.C. §6901 *ET SEQ.*) ("RCRA") OR REGULATIONS PROMULGATED UNDER RCRA; (III) ANY SUBSTANCE REGULATED BY TOXIC SUBSTANCES CONTROL ACT (15 U.S.C. §2601 *ET SEQ.*); (IV) GASOLINE, DIESEL FUEL, OR OTHER PETROLEUM HYDROCARBONS; (V) ASBESTOS AND ASBESTOS CONTAINING MATERIALS, IN ANY FORM, WHETHER FRIABLE OR NON-FRIABLE; (VI) POLYCHLORINATED BIPHENYLS; (VII) RADON GAS; AND (VIII) ANY ADDITIONAL SUBSTANCES OR MATERIALS WHICH ARE NOW OR HEREAFTER CLASSIFIED OR CONSIDERED TO BE HAZARDOUS OR TOXIC UNDER ANY APPLICABLE FEDERAL OR STATE LAWS RELATING TO ANY OF THE PROPERTY. HAZARDOUS SUBSTANCES SHALL INCLUDE, WITHOUT LIMITATION, ANY SUBSTANCE, THE PRESENCE OF WHICH ON THE PROPERTY, (A) REQUIRES REPORTING, INVESTIGATION OR REMEDIATION UNDER APPLICABLE LAW, (B) CAUSES OR THREATENS TO CAUSE A NUISANCE ON THE PROPERTY OR ADJACENT PROPERTY OR POSES OR THREATENS TO POSE A HAZARD TO THE HEALTH OR SAFETY OF PERSONS ON THE PROPERTY OR ADJACENT PROPERTY; OR (C) WHICH, IF IT EMANATED OR MIGRATED FROM THE PROPERTY, COULD CONSTITUTE A TRESPASS.

Facsimile signatures hereon shall be treated for all purposes as original signatures.

[SIGNATURE PAGE FOLLOWS]

Agreement of Purchase and Sale
Big Pine Key

IN WITNESS WHEREOF, Grantee has executed and delivered this Certificate as of the date set forth above.

GRANTEE:

ATTEST:

**MONROE COUNTY BOARD OF COUNTY
COMMISSIONERS OF MONROE COUNTY, FLORIDA**

By: _____

Name: _____

Title: _____

Agreement of Purchase and Sale
Big Pine Key

EXHIBIT "A"

Legal Description

Parcel I

TRACT no. 3, as per unrecorded sketch of Tropic-Island Ranchetts, Big Pine Key, Florida and now particularly described by metes and bounds as follows:

On the island of Big Pine Key, Monroe County, Florida, begin at the center of Section 26, Township 66 South, Range 29 East; thence run due Westerly 548.75 feet to the POINT OF BEGINNING; thence continue due Westerly 299.375 feet; thence run due Southerly 160.0 feet; thence run due Easterly 299.375 feet; thence run due Northerly 160.0 feet to the POINT OF BEGINNING.

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Big Pine Key